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Nos. 76-1587 (76-1133, 76-1114)

IN THE

Supreme Court of the United States

October Term, 1977

FEDERAL POWER COMMISSION, et. al.,
Petitioners,

vs.

SOUTHLAND ROYALTY COMPANY, et. al.,
Respondents.

On Writs of Certiorari To
The United States Court of Appeals
For the Fifth Circuit

BRIEF OF THE STATE OF NEW MEXICO AS AMICUS CURIAE IN SUPPORT OF THE RESPONDENTS JOINING IN THE BRIEF OF THE STATE OF TEXAS

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INDEX

INTEREST OF THE STATE OF NEW MEXICO 1

ARGUMENT 2

CONCLUSION. 3

CERTIFICATE OF SERVICE 4

CITATIONS

Southland Royalty Co. v. FPC,
543 F.2d 1134 (5th Cir. 1976). 2, 3

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INTEREST OF THE STATE OF NEW MEXICO

The State of New Mexico (New Mexico) has interests in this case very much like those of the State of Texas. New Mexico owns in excess of thirteen million (13,000,000) acres of mineral land which has been, or will be, leased for oil and gas production. New Mexico's State Land Office oversees this leasing effort.

In addition to royalties from oil and gas production, New Mexico receives severance taxes which are used for numerous purposes to benefit the people of New Mexico.

Most of the natural gas produced in New Mexico leaves the state and goes to consumers in non-producing states. However, the people of New Mexico also consume natural gas. They are entitled to be treated fairly by the Federal Power Commission. Gas consumers in a producing state are no less worthy of consideration than consumers in non-producing states. The Federal Power Commission seems to have forgotten this point.

The State of New Mexico Energy Resources Board ("Board"), whose function is to see that New Mexico has sufficient energy for its needs, has a vital interest in protecting the state from even further erosions of its natural gas supplies. Thus, the Board is particularly concerned that the decision of the Federal Power Commission not be revived and that the Court of Appeals' decision in *Southland Royalty Co. v. FPC*, 543 F.2d 1134 (5th Cir. 1976) be upheld.

As we have stated, New Mexico has a vast amount of public land which is the subject of oil and gas leases. We fear, as does Texas, that reversal of the Court of Appeals in this case will jeopardize the royalty and tax revenue derived from gas production. Moreover, gas leases on private lands in New Mexico will be no less affected – undoubtedly adversely – if the decision of the Federal Power Commission were upheld.

This decision of the Court of Appeals in *Southland* rejects the excessive claims of authority of the Federal Power Commission in this case. New Mexico supports the Court of Appeals in this regard.

ARGUMENT

New Mexico cannot beneficially add to the arguments of the State of Texas. Time is very short, and New Mexico believes that the State of Texas has amply expressed not only its concerns, but those of New Mexico in regard to the issues presented

in the *Southland* case. Therefore, the State of New Mexico joins in the brief of the State of Texas supporting the Respondents.

CONCLUSION

For the reasons expressed in the brief of the State of Texas, the State of New Mexico respectfully asks this Court to affirm the decision of the Court of Appeals in this case.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I, Vernon O. Henning, certify that the foregoing brief has been served upon the parties by placing the required number of copies in the United States mail with prepaid first class or airmail postage on October 21, 1977.

/s/ Vernon O. Henning

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